

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|---------------------------------|---|-------------------------|
| TIMOTHY J. SHUHAYDA, | : | |
| Petitioner, | : | |
| v. | : | Civil Action No. 04-78J |
| HARRY WILSON, SUPERINTENDENT, | : | |
| S.C.I. CRESSON, and the | : | |
| PENNSYLVANIA BOARD OF PROBATION | : | |
| AND PAROLE, | : | |
| Respondents | : | |

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for a Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on May 1, 2006, docket no. 9, recommending that the petition for a writ of habeas corpus be denied without prejudice as unexhausted, and that a certificate of appealability be denied.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. No objections have been filed, and the time to do so has expired.

After review of the record of this matter together with the Report and Recommendation, and noting the absence of timely objections thereto, the following order is entered:

AND NOW, this 22nd day of May, 2006, it is

ORDERED that the petitioner's petition for a writ of habeas corpus is denied. A certificate of appealability is denied. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

Timothy J. Shuhayda CL-9624
S.C.I. Cresson
P.O. Box A
Cresson, PA 16699

Mary L. Friedline, Esquire
6th Floor Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219